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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Implementation of Sections
of the Cable Television Consumer
Protection and Competition Act
of 1992

Rate Regulation

MM Docket No. 92-266

**CONTINENTAL CABLEVISION, INC.'S REPLY IN
SUPPORT OF ITS PETITION FOR RECONSIDERATION**

Continental Cablevision, Inc. ("Continental") hereby
replies to limited matters raised in oppositions to petitions for
reconsideration in this docket.

Opposition) Continental's counsel explained that the franchising authorities have no risk in delaying certification of regulation over Continental's basic rates, and suggested the potential benefits of putting off certification. The Michigan Communities accuse Continental of "seriously misleading" franchising authorities with the ulterior motive of evading rate regulation.

Michigan Communities at 1-9. Unfortunately, these intemperate accusations come as no surprise. Counsel for the Michigan Communities raised the same general concerns in a letter dated June 29, 1993 addressed to the city attorney of Lansing, Michigan. Attachment A. Continental's counsel responded to the accusations point-by-point, demonstrating that Continental's representations to Michigan franchising authorities were and remain entirely accurate. Attachment B. We invite the Commission to consider this attached response as our rebuttal to the Michigan Communities' unfounded assertions.


This episode demonstrates the mischief caused by municipal attorneys and consultants who do not understand the fundamental framework of the Commission's rate regulations. The Michigan Communities' counsel would use Continental's efforts to maintain cordial relations with its franchising authorities as a springboard to create an adversarial atmosphere. Senseless adversarial posturing threatens to replace cooperative and mutually beneficial working relationships between cable operators and their local franchising authorities. Continental places great

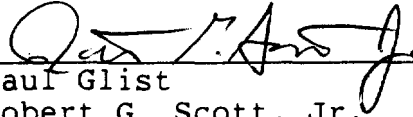
value on its reputation and on harmonious co-existence with local regulators, as Lansing, Michigan officials would readily verify.

for cable rate regulation). The Commission should reject these equally unrealistic suggestions.

Continental respectfully asks that the Commission reconsider and clarify its rate regulation rules as more fully set forth in Continental's Petition and Opposition.

Respectfully submitted,


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August 2, 1993

ATTACHMENT A

07/07/93 09:57 517 485 0344
07/06/93 15:18 517 484 082

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003/004

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June 29, 1993

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JUL 2 1993

LAW DEPARTMENT

Mr. Alvan P. Knot
City Attorney
City of Lansing
5th Floor City Hall
Lansing, MI 48933

Dear Al:

Thanks for faxing the correspondence from Continental Cablevision to the City about rate regulation with respect to the letter from Continental's attorneys dated June 8. The key is that Continental's rates are currently \$300,000 to \$350,000 per year below the FCC approved benchmark in the City of Lansing alone. Unless by November 14 the City has taken all four steps necessary to regulate rates, Continental will be able to raise its rates by \$350,000 per year and the City will not be able to undo the increase.

If adjacent townships served by Continental do meet the deadline, then the rates in the townships will be significantly lower than in the City.

The statements in the second paragraph in the June 8 letter to Mr. Weigand are simply inapplicable to the situation described above as they pertain to cities where Continental's rates are above the FCC benchmark. Continental does not point out that the cable companies are challenging the "one year reach back" provision it describes. And it does not point out that there is no one year reach back for the "middle tier" of rates which are regulated directly by the FCC.

The statement in the third paragraph is legally incorrect: We do not believe that an agreement entered into by a cable company outside the rate regulation process is binding on the cable company. Certainly the City would not wish to take any risk in this regard.

As to the fourth paragraph, for practical purposes the City can easily settle rates: If City

07/07/93 09:58 ☎1 517 485 0344
07/06/93 15:19 ☎517 484 782

CONTINENTAL CABL
LATTERMAN ASSOC

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004/004

VARNUM, KIDDERING, SCHMIDT & HOWLETT
ATTORNEYS AT LAW

Mr. Alvan P. Knot
June 29, 1993
Page 2

In several cities, we have seen Continental make a big push to try to get cities to delay or

ATTACHMENT B

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July 8, 1993

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* ADMITTED IN PENNSYLVANIA ONLY

**ADMITTED IN VIRGINIA ONLY

VIA FEDERAL EXPRESS

Richard Weigand
Continental Cablevision
1111 Michigan Avenue, Suite 200
East Lansing, MI 48823

Dear Richard:

You have asked me to respond to Mr. Pestle's letter of June 29, 1993, which takes issue with my letter of June 8. Mr. Pestle's letter proceeds from the premise that Continental will be able to raise rates by \$350,000 unless the City certifies to the FCC. He is mistaken for several reasons.

In the first place, he does not appear to understand how the FCC benchmark system and the Forms 393 actually operate. One cannot determine whether or not a system's program service rates are above or below the benchmark merely by multiplying the number of channels times the number from the FCC's benchmark table and comparing the rates for programming service with the rates now charged. The "benchmark" numbers include equipment and installation revenues. The FCC rules and forms therefore require that all revenue from installation, reconnection, additional outlets, remote controls, converters, and other customer equipment be added into program service revenues and spread across channels before the comparison is made. In as much as approximately 9.9% of Continental's present revenues are from such installation and equipment revenues, the rates in Lansing are not below the benchmark. Instead, various rates will need to be restructured and reduced to meet the FCC rate benchmark standards.

Continental has every intention of bringing its rates into alignment with FCC regulation by the effective date of the rate rules. But suppose Mr. Pestle fears otherwise. The City

As to tier rates, Mr. Pestle is correct that there is no one-year "reach back," but that is irrelevant to the issue of certification. Only the FCC can reduce satellite tier rates, and it will do so on complaint. Complaints may be filed by any franchising authority, even if not certified. Refunds are to be awarded from the date of complaint, which may be filed as early as the effective date of the rules (October 1). Thus, although there is no "reach back" rule by name, the rules applicable to tier complaints operate in the same way from the same date, whether or not a City certifies.

As to the "risk" of informal agreements: The Commission has specifically refused to take regulation over basic service in Cities that have chosen not to certify -- precisely to permit such informal agreements. A non-certified City could easily agree with an operator to review Form 202a informally and

Richard Weigand
July 8, 1993
Page -3-

latitude to settle rate cases." Report & Order in MM Docket 92-266, FCC 93-177 at ¶126 n.337. That is why the FCC lays out a formal process, and provides that subscribers have the right to appeal a City's formal rate decision, even if both the City and the cable operator have "settled" on it.

This has been my point throughout this process. The FCC rate procedures actually reduce the flexibility of cities in regulating rates and reaching informal agreements with local cable operators. Neither I nor you have been trying to weave a dramatic rate increase through a regulatory window left open by non-certification. Had we tried to do so, the Commission's rules will permit cities to undo that subterfuge. What we have tried to do is prevent cities from unthinkingly going down the one-way street of certification only to discover that doing so has cost them and us the flexibility needed to informally resolve rate disputes. Informal agreements should be suitable for so long as informal agreements are satisfactory to the City. Ultimately, the City has to make the choice. But I do not see any risk to the City, and all I see are downsides if a City buys into the FCC rate procedures without realizing that it is forever giving up the flexibility with which it customarily resolves local concerns.

Sincerely,

A handwritten signature in dark ink, appearing to be 'Paul Glist', with a stylized, looping initial 'P'.

Paul Glist

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of July, 1993,
copies of the foregoing Opposition to Petitions for Reconsideration
were sent by postage-paid, first-class U.S. mail to the following:

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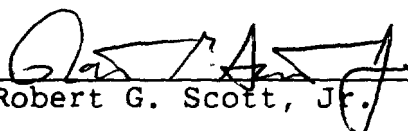
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